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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,780	02/09/2004	Gregory D. Aviza	00216-674001 / Case 8144	8854
26161	7590	04/25/2005	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			PETERSON, KENNETH E	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,780

Applicant(s)

AVIZA, GREGORY D.

Examiner

Kenneth E Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-28 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 2-5, drawn to a razor having blade support slots.
- II. Claims 6 and 7, drawn to a razor having elongate blade support portions.
- III. Claim 13, drawn to a razor having blades positioned in a plane.
- IV. Claim 14 and 26, drawn to a razor having elongate blade snap-fits.
- V. Claim 16-21,24 and 25, drawn to a razor having blade with adjustable stops.

2. Claims 1,8,15,22 and 23 will be examined with the election of any of groups I-V. One of claims 9-12 will be examined with the election of any of groups I-V, depending on which species is elected. Also, one of claims 27 and 28 will be examined with the election of any of groups I-V, depending on which species is elected.

3. Claim 1 links the inventions of group I-V. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claim, claim 1.

Claim 22 links the inventions of group IV-V. The restriction requirement of the linked inventions is subject to the nonallowance of the linking claim, claim 22.

Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are

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presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

4. Inventions of group I-V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. For example, the razor having blade support slots of group I could utilize free-span blades, as opposed to the blade supports of group II. Conversely, the razor using blade supports of group II could fasten the blades to flanges instead of in the slots of group I. Further example can be provided if needed. See MPEP § 806.05(d).

5. There is an excessive burden on the office to examine all of these inventions together, as shown by their search. See MPEP 808.02(C). For example, the razor of group I would be searched in class 30, subclass 48 along with a unique text search for slots. The razor of group II would not be searched as above, but would instead be searched in class 30, subclass 75 along with a different text search. The other groups also have unique searches, and additional examples can be provided if needed.

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6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different search and because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A – 2 blades raised into the recess.

Species B – 3 blades raised into the recess.

Species C – 4 blades raised into the recess.

Species D – 5 blades raised into the recess.

Species E – 2 blades lowered into the recess.

Species F – 3 blades lowered into the recess.

Species G – 4 blades lowered into the recess.

Species H – 5 blades lowered into the recess.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, many of the claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim

is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson at 571-272-4512, on Monday-Thursday, 7AM-5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached at 571-272-4514. In lieu of mailing, it is encouraged that papers be faxed to 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. For more information about the PAIR system, see <http://pair-direct.uspto.gov> or call the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kp
April 13, 2005



KENNETH E. PETERSON
PRIMARY EXAMINER